

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

***RULES CLEARINGHOUSE***

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**David J. Stute, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 99-091**

AN ORDER to renumber Trans 213.03 (3) to (5); to renumber and amend Trans 213.03 (2); to amend Trans 213.02 (5), (6), (8) and (9); to repeal and recreate Trans 213.03 (1); and to create Trans 213.02 (2m) and 213.03 (2) and (4) (c) Note, relating to the local bridge program.

Submitted by **DEPARTMENT OF TRANSPORTATION**

06-01-99      RECEIVED BY LEGISLATIVE COUNCIL.  
06-17-99      REPORT SENT TO AGENCY.

RS:WF:jal;rv

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES ☐

NO ☒

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES ☐

NO ☒

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES ☐

NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached

YES ☐

NO ☒

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES ☒

NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES ☐

NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES ☐

NO ☒

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 99-091

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

One of the elements of the definition of "local bridge" in s. Trans 213.02 (6) is that it be "open to the public." Does the department intend that only bridges that have not actually been closed to travel because of structural or other deficiencies are eligible for reconstruction or rehabilitation under ch. Trans 213? Alternatively, does this element of the definition only require that the bridge not be a private bridge? Section Trans 213.02 (6) should be clarified to remove this ambiguity.

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The Wisconsin Department of Transportation proposes an order to renumber TRANS 213.03(3) to (5); renumber and amend TRANS 213.03(2); amend TRANS 213.02(5), (6), (8) and (9); repeal and recreate TRANS 213.03(1); and create TRANS 213.02(2m), 213.03(2) and (4)(c)(note), relating to the local bridge program.

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**NOTICE OF HEARING  
AND  
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to ss. 84.18(7) and 85.16(1), Stats., and interpreting s. 84.18, Stats., the Department of Transportation will hold a public hearing in **Room 951** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **29th** day of **June**, 1999, at **1:30 PM**, to consider the amendment of ch. Trans 213, Wisconsin Administrative Code, relating to the local bridge program.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business July 2, 1999, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Alex Zanello, Department of Transportation, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, WI 53707-7913.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

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## Analysis Prepared by the Wisconsin Department of Transportation

**STATUTORY AUTHORITY:** ss. 84.18(7) and 85.16(1), Stats.

**STATUTES INTERPRETED:** s. 84.18, Stats.

**General Summary of Proposed Rule.** This proposed rule making will modify the current Wisconsin requirements for replacement of eligible structures under the Local Bridge Improvement Assistance Program. The sufficiency rating for replacement is raised from less than 40 to the federal standard of less than 50. At the same time, minor changes in this proposed rule will eliminate any discrepancies between federal requirements and the current rule, and update outdated references.

**Fiscal Impact.** The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district or sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

**Initial Regulatory Flexibility Analysis.** This proposed rule will have no adverse impact on small businesses.

**Copies of Proposed Rule.** Copies of the proposed rule may be obtained upon request, without cost, by writing to Alex Zanello, Department of Transportation, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-1535. Alternate formats of the proposed rule will be provided to individuals at their request.

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### TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 84.18(7) and 85.16(1), Stats., the department of transportation hereby proposes to amend a rule interpreting s. 84.18, Stats., relating to the local bridge program.

**SECTION 1.** Trans 213.02(2m) is created to read:

Trans 213.02(2m) "Deficient bridge" is a bridge that is "structurally deficient" or "functionally obsolete" as defined in the federal highway administration's federal-aid policy guide, part NS 23 CFR 650D, par. 9, dated September 30, 1992, attached as appendix 1.

**SECTION 2.** Trans 213.02(5), (6), (8) and (9) are amended to read:

Trans 213.02(5) "Fiscal period" means the period of time for which the program is being planned, normally 2 3 years.

(6) "Local bridge" means a bridge which is not on the state trunk highway system or on marked routes of the state trunk highway system designated as connecting highways, is open to the public, and is under the jurisdiction of and maintained by an eligible applicant.

(8) "Seriously deteriorating local bridge" means a local bridge ~~exhibiting deficiencies that result in a sufficiency rating of less than 40~~ which is a deficient bridge.

(9) "Sufficiency rating" means a relative rating of the condition of a bridge as determined by the department from inventory and inspection data, as defined ~~by the American association of state highway and transportation officials in the Manual for Maintenance Inspection of Bridges 1983, as revised by the Interim Specifications Bridges, 1984 1990, published by the American association of state highway and transportation officials, 444 North Capitol Street, N.W., Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, December 1995, Report No. FHWA-PD-96-001, prepared by the U.S. department of transportation, federal highway administration, office of engineering, bridge division, bridge management branch, Washington, D.C. 20001 20590. This manual is on file at the offices of the division of highways, Wisconsin department of transportation, of the secretary of state and of the revisor of statutes.~~

**NOTE:** This manual is on file at the offices of the Division of Transportation Infrastructure Development, Wisconsin Department of Transportation, the Secretary of State, and the Revisor of Statutes.

**SECTION 3.** Trans 213.03(1) is repealed and recreated to read:

Trans 213.03(1) DETERMINATION OF ELIGIBILITY. A local bridge project is eligible for funds under s. 84.18, Stats., if it meets the following criteria:

- (a) The bridge has been determined by the department to be a deficient bridge.
- (b) The bridge has a sufficiency rating of 80 or less.
- (c) The bridge has not been constructed or reconstructed in the last 10 years regardless of the source of funding for the construction or reconstruction.
- (d) The bridge has not been programmed for construction under an order by the department under s. 84.11(4), Stats.

**SECTION 4.** Trans 213.03(2) is renumbered Trans 213.03(3) and amended to read:

Trans 213.03(3) APPLICATION. Application for replacement or rehabilitation funds may be made by any eligible applicant to the county in which it is located. Each county shall establish priorities for proposed projects in the county. Applications for proposed projects shall be submitted to the department by each county, upon notification by the ~~department's division of highways~~ department.

**SECTION 5.** Trans 213.03(2) is created to read:

Trans 213.03(2) REPLACEMENT AND REHABILITATION. (a) An eligible local bridge project under sub. (1) may be for replacement of the bridge if the bridge has a current sufficiency rating of less than 50.

(b) An eligible local bridge project under sub. (1) may be for rehabilitation of the bridge if the bridge has a sufficiency rating of 80 or less. An engineering study shall be undertaken and funded independently by the eligible applicant that indicates that any rehabilitation would be cost effective, would extend the life of the bridge by at least 10

years, and would correct all deficiencies. If conditions exist that would prevent the completed improvement from correcting all deficiencies, the department may determine if the proposed project is eligible based on safety and the public interest.

**SECTION 6.** Trans 213.03(3) is renumbered Trans 213.03(4) and, as renumbered, Trans 213.03(4)(a) and (b) are amended to read:

Trans 213.03(4)(a) The proportionate share of the funds available to each county shall be the ratio of the estimated cost of replacing those eligible local bridges in the county with sufficiency ratings of less than ~~40~~ 50 to the estimated cost of replacing all eligible local bridges in the state with sufficiency ratings of less than ~~40~~ 50.

(b) Each county's entitlement shall be computed by adding the positive or negative balance of unused funds from previous years to the proportionate share for the fiscal period under consideration.

**SECTION 7.** Trans 213.03(4)(c)(note), as renumbered, is created to read:

**NOTE:** The statewide project ranking and calculation methodology is explained in the Program Management Manual, Chapter 06-02-08, June 10, 1988. Copies of this document may be obtained from the Division of Transportation Investment Management, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-5408.

**SECTION 8.** Trans 213.03(4)(e), as renumbered, is amended to read:

Trans 213.03(4)(e) Funds shall be assigned to projects in order of rank, starting with rank #1 to the limit of available funds in each fiscal period. The department shall notify the counties of the assigned funding to approved projects.

**SECTION 9.** Trans 213.03(4) and (5) are renumbered Trans 213.03(5) and (6).

**(END OF RULE TEXT)**

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**Effective Date.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 27 day of May, 1999.

  
\_\_\_\_\_  
CHARLES H. THOMPSON  
Secretary  
Wisconsin Department of Transportation

## APPENDIX 1

Non-Regulatory Supplement  
Federal-Aid Policy Guide  
September 30, 1992, Transmittal 5

NS 23 CFR 650D

### 9. HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM (23 CFR 650.409)

The National Bridge Inventory will be used for preparing the selection list of bridges both on and off of Federal-aid highways. Highway bridges considered structurally deficient or functionally obsolete and with a sufficiency rating of 80 or less will be used for the selection list. Those bridges appearing on the list with a sufficiency rating of less than 50.0 will be eligible for replacement or rehabilitation while those with a sufficiency rating of 80.0 or less will be eligible for rehabilitation. To be considered for the classification of deficient bridge, a structure must be of bridge length, and had not been constructed or had major reconstruction within the past 10 years.

#### a. General Qualifications:

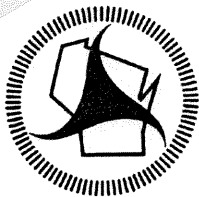
In order to be considered for either the structurally deficient or functionally obsolete classification a highway bridge must meet the following:

#### Structurally Deficient

1. A condition rating of 4 or less for  
Item 58 - Deck; or  
Item 59 - Superstructures; or  
Item 60 - Substructures; or  
Item 62 - Culvert and Retaining Walls.  
[Item 62 applies only if the last digit of  
or
2. An appraisal rating of 2 or less for  
Item 67 - Structural Condition; or  
Item 71 - Waterway Adequacy.  
[Item 71 applies only if the last digit of Item 42 is coded 0, 5, 6, 7, 8, or 9.]

#### Functionally Obsolete

1. An appraisal rating of 3 or less for  
Item 68 - Deck Geometry; or  
Item 69 - Underclearances;  
[Item 69 applies only if the last digit is coded 0, 1, 2, 4 6, 7 or 8.]  
or
  2. An appraisal rating of 3 for  
Item 67 - Structural Condition; or  
Item 71 - Waterway Adequacy. [see above]
- b. Any bridge classified as structurally deficient is excluded from the functionally obsolete category.



## Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

Office of General Counsel  
4802 Sheboygan Ave., Rm. 115B  
P.O. Box 7910  
Madison, WI 53707-7910

Telephone: 608-266-8810  
FAX: 608-267-6734  
E-Mail: ogc.exec@dot.state.wi.us

January 21, 1999

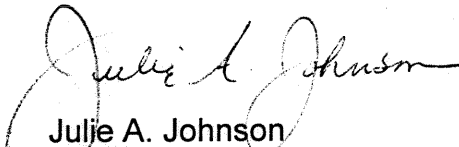
Mr. Gary L. Poulson, Deputy Revisor  
Revisor of Statutes Bureau  
131 West Wilson Street  
Suite 800  
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 213**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 213. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

  
Julie A. Johnson  
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director  
Senator Judy Robson, Co-Chair/JCRAR  
Representative Glenn Grothman, Co-Chair/JCRAR  
Secretary's Office  
Sandy Beaupre  
Mike Goetzman  
Jim Van Sistine  
Marcia Traska  
Alex Zanello

## **STATEMENT OF SCOPE**

### **DESCRIPTION OF THE OBJECTIVE OF THE RULE:**

This rule making will amend ch. Trans 213, relating to the Local Bridge Improvement Assistance Program. It will consider modifying the current Wisconsin requirement for replacement of eligible structures under the program from sufficiency rating of less than 40, to the federal standard of less than 50. The update will also address any discrepancies between federal requirements and the current rule.

### **DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:**

The federal bridge program was created in 1979, with state funds first approved in the 1983-1985 biennium. When the program was initiated, Wisconsin had a significant number of deficient local structures. The Local Bridge Improvement Assistance Program was designed with stringent requirements exceeding even those of the federal government, in a true attempt to address the very worst of Wisconsin's problems.

Since then, over 2,169 bridges have been replaced under the program, at a total cost of well over \$411 million. In 1979, 1,677 structures were eligible for replacement. In 1998, that number was 680 (a net gain of 997 bridges).

Analysis: The issues this rule making will address include:

(1) New Criteria. It is timely and appropriate to make ch. Trans 213 consistent with the state bridge program, and federal rules. The change from sufficiency rating of less than 40 for replacement to less than 50 will make an additional 429 structures statewide immediately eligible for replacement.

(2) New Eligibility. Since the rule was originally written, federal rules have changed, making items such as scour eligible for reimbursement. This amendment will enable locals to take advantage of new items.

(3) New Definitions. Several references to WisDOT organization and federal resources are outdated. These will be corrected, and any new items defined.

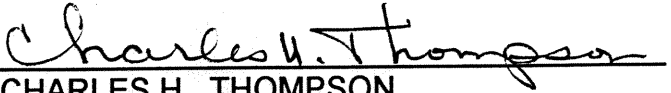
### **STATUTORY AUTHORITY FOR THE RULE:**

Sections 84.18 and 85.16, Stats.

**ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND  
DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO  
DEVELOP THE RULE:**

An estimate of state employee time would be a total of several weeks (drafting, meetings with local officials and counties, and holding public hearings.)

Signed at Madison, Wisconsin, this 20 day  
of January, 1999.

  
A handwritten signature in cursive script, reading "Charles H. Thompson", is written over a horizontal line.

CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation



SEP 14 1999

## Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

Office of General Counsel  
4802 Sheboygan Ave., Rm. 115B  
P.O. Box 7910  
Madison, WI 53707-7910

Telephone: 608-266-8810  
FAX: 608-267-6734  
E-Mail: ogc.exec@dot.state.wi.us

The Honorable Fred Risser  
President, Wisconsin State Senate  
Room 220 South, State Capitol  
Madison, Wisconsin 53707

September 13, 1999

The Honorable Scott Jensen  
Speaker, Wisconsin State Assembly  
Room 211 West, State Capitol  
Madison, Wisconsin 53707

RE: Proposed Administrative Rule **TRANS 213**  
Notification of Legislative Standing Committees  
**CLEARINGHOUSE RULE 99-091**

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **99-091**, relating to the **local bridge program**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,

A handwritten signature in cursive script, reading "Julie A. Johnson".

Julie A. Johnson  
Paralegal

JAJ/dim

Enclosure

cc: Gary Poulson  
Senator Judy Robson  
Representative Glenn Grothman  
Jim Van Sistine  
Marcia Traska  
Alex Zanello

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**CR 99-091**

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The Wisconsin Department of Transportation proposes an order to renumber TRANS 213.03(3) to (5); renumber and amend TRANS 213.03(2); amend TRANS 213.02(5), (6), (8) and (9); repeal and recreate TRANS 213.03(1); and create TRANS 213.02(2m), 213.03(2) and (4)(c)(note), relating to the local bridge program.

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**REPORT OF THE DEPARTMENT OF TRANSPORTATION  
ON THE FINAL RULE DRAFT**

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This report is submitted to the presiding officers of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

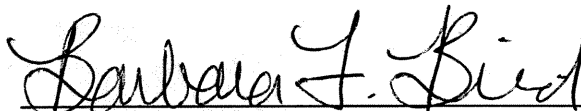
Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:



BARBARA F. BIRD

Assistant General Counsel  
Office of General Counsel  
Department of Transportation  
Room 115-B, Hill Farms State  
Transportation Building  
P. O. Box 7910  
Madison, WI 53707-7910  
(608) 266-8807

## **PART 1**

### **Analysis Prepared by the Wisconsin Department of Transportation**

**STATUTORY AUTHORITY:** ss. 84.18(7) and 85.16(1), Stats.

**STATUTES INTERPRETED:** s. 84.18, Stats.

**General Summary of Proposed Rule.** This proposed rule making will modify the current Wisconsin requirements for replacement of eligible structures under the Local Bridge Improvement Assistance Program. The sufficiency rating for replacement is raised from less than 40 to the federal standard of less than 50. At the same time, minor changes in this proposed rule will eliminate any discrepancies between federal requirements and the current rule, and update outdated references.

**Fiscal Impact.** The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district or sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

**Copies of Proposed Rule.** Copies of the proposed rule may be obtained upon request, without cost, by writing to Alex Zanello, Department of Transportation, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-1535. Alternate formats of the proposed rule will be provided to individuals at their request.

---

## **PART 2**

### **TEXT OF PROPOSED RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 84.18(7) and 85.16(1), Stats., the department of transportation hereby proposes to amend a rule interpreting s. 84.18, Stats., relating to the local bridge program.

**SECTION 1.** Trans 213.02(2m) is created to read:

Trans 213.02(2m) "Deficient bridge" is a bridge that is "structurally deficient" or "functionally obsolete" as defined in the federal highway administration's federal-aid policy guide, part NS 23 CFR 650D, par. 9, dated September 30, 1992, attached as appendix 1.

**SECTION 2.** Trans 213.02(5), (6), (8) and (9) are amended to read:



Trans 213.02(5) "Fiscal period" means the period of time for which the program is being planned, normally 2 3 years.

(6) "Local bridge" means a bridge which is not on the state trunk highway system or on marked routes of the state trunk highway system designated as connecting highways, and is under the jurisdiction of and maintained by an eligible applicant.

(8) "Seriously deteriorating local bridge" means a local bridge ~~exhibiting deficiencies that result in a sufficiency rating of less than 40~~ which is a deficient bridge.

(9) "Sufficiency rating" means a relative rating of the condition of a bridge as determined by the department from inventory and inspection data, as defined ~~by the American association of state highway and transportation officials in the Manual for Maintenance Inspection of Bridges 1983, as revised by the Interim Specifications Bridges, 1984-1990, published by the American association of state highway and transportation officials, 444 North Capitol Street, N.W., Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, December 1995, Report No. FHWA-PD-96-001, prepared by the U.S. department of transportation, federal highway administration, office of engineering, bridge division, bridge management branch, Washington, D.C. 20004 20590. This manual is on file at the offices of the division of highways, Wisconsin department of transportation, of the secretary of state and of the revisor of statutes.~~

**NOTE: This manual is on file at the offices of the Division of Transportation Infrastructure Development, Wisconsin Department of Transportation, the Secretary of State, and the Revisor of Statutes.**

**SECTION 3.** Trans 213.03(1) is repealed and recreated to read:

Trans 213.03(1) DETERMINATION OF ELIGIBILITY. A local bridge project is eligible for funds under s. 84.18, Stats., if it meets the following criteria:

(a) The bridge has been determined by the department to be a deficient bridge.

(b) The bridge has a sufficiency rating of 80 or less.

(c) The bridge has not been constructed or reconstructed in the last 10 years regardless of the source of funding for the construction or reconstruction.

(d) The bridge has not been programmed for construction under an order by the department under s. 84.11(4), Stats.

**SECTION 4.** Trans 213.03(2) is renumbered Trans 213.03(3) and amended to read:

Trans 213.03(3) APPLICATION. Application for replacement or rehabilitation funds may be made by any eligible applicant to the county in which it is located. Each county shall establish priorities for proposed projects in the county. Applications for proposed projects shall be submitted to the department by each county, upon notification by the ~~department's division of highways~~ department.

**SECTION 5.** Trans 213.03(2) is created to read:

Trans 213.03(2) REPLACEMENT AND REHABILITATION. (a) An eligible local bridge project under sub. (1) may be for replacement of the bridge if the bridge has a current sufficiency rating of less than 50.

(b) An eligible local bridge project under sub. (1) may be for rehabilitation of the bridge if the bridge has a sufficiency rating of 80 or less. An engineering study shall be undertaken and funded independently by the eligible applicant that indicates that any rehabilitation would be cost effective, would extend the life of the bridge by at least 10 years, and would correct all deficiencies. If conditions exist that would prevent the

completed improvement from correcting all deficiencies, the department may determine if the proposed project is eligible based on safety and the public interest.

**SECTION 6.** Trans 213.03(3) is renumbered Trans 213.03(4) and, as renumbered, Trans 213.03(4)(a) and (b) are amended to read:

Trans 213.03(4)(a) The proportionate share of the funds available to each county shall be the ratio of the estimated cost of replacing those eligible local bridges in the county with sufficiency ratings of less than ~~40~~ 50 to the estimated cost of replacing all eligible local bridges in the state with sufficiency ratings of less than ~~40~~ 50.

(b) Each county's entitlement shall be computed by adding the positive or negative balance of unused funds from previous years to the proportionate share for the fiscal period under consideration.

**SECTION 7.** Trans 213.03(4)(c)(note), as renumbered, is created to read:

**NOTE:** The statewide project ranking and calculation methodology is explained in the Program Management Manual, Chapter 06-02-08, June 10, 1988. Copies of this document may be obtained from the Division of Transportation Investment Management, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-5408.

**SECTION 8.** Trans 213.03(4)(e), as renumbered, is amended to read:

Trans 213.03(4)(e) Funds shall be assigned to projects in order of rank, starting with rank #1 to the limit of available funds in each fiscal period. The department shall notify the counties of the assigned funding to approved projects.

**SECTION 9.** Trans 213.03(4) and (5) are renumbered Trans 213.03(5) and (6).

**(END OF RULE TEXT)**

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**Effective Date.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 9 day of September, 1999.

A handwritten signature in cursive script, reading "Charles H. Thompson", written over a horizontal line.

CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation

## APPENDIX 1

Non-Regulatory Supplement  
Federal-Aid Policy Guide  
September 30, 1992, Transmittal 5

NS 23 CFR 650D

### 9. HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM (23 CFR 650.409)

The National Bridge Inventory will be used for preparing the selection list of bridges both on and off of Federal-aid highways. Highway bridges considered structurally deficient or functionally obsolete and with a sufficiency rating of 80 or less will be used for the selection list. Those bridges appearing on the list with a sufficiency rating of less than 50.0 will be eligible for replacement or rehabilitation while those with a sufficiency rating of 80.0 or less will be eligible for rehabilitation. To be considered for the classification of deficient bridge, a structure must be of bridge length, and had not been constructed or had major reconstruction within the past 10 years.

#### a. General Qualifications:

In order to be considered for either the structurally deficient or functionally obsolete classification a highway bridge must meet the following:

#### Structurally Deficient

1. A condition rating of 4 or less for  
Item 58 - Deck; or  
Item 59 - Superstructures; or  
Item 60 - Substructures; or  
Item 62 - Culvert and Retaining Walls.  
[Item 62 applies only if the last digit of

or

2. An appraisal rating of 2 or less for  
Item 67 - Structural Condition; or  
Item 71 - Waterway Adequacy.  
[Item 71 applies only if the last digit of Item 42 is coded 0, 5, 6, 7, 8, or 9.]

#### Functionally Obsolete

1. An appraisal rating of 3 or less for  
Item 68 - Deck Geometry; or  
Item 69 - Underclearances;  
[Item 69 applies only if the last digit is coded 0, 1, 2, 4, 6, 7 or 8.]

or

2. An appraisal rating of 3 for  
Item 67 - Structural Condition; or  
Item 71 - Waterway Adequacy. [see above]

- b. Any bridge classified as structurally deficient is excluded from the functionally obsolete category.

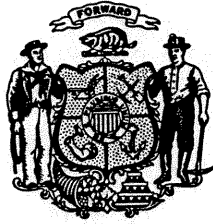
WISCONSIN LEGISLATIVE COUNCIL STAFF



**RULES CLEARINGHOUSE**

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**David J. Stute, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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PART 3

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 99-091**

AN ORDER to renumber Trans 213.03 (3) to (5); to renumber and amend Trans 213.03 (2); to amend Trans 213.02 (5), (6), (8) and (9); to repeal and recreate Trans 213.03 (1); and to create Trans 213.02 (2m) and 213.03 (2) and (4) (c) Note, relating to the local bridge program.

Submitted by **DEPARTMENT OF TRANSPORTATION**

06-01-99      RECEIVED BY LEGISLATIVE COUNCIL.

06-17-99      REPORT SENT TO AGENCY.

RS:WF:jal;rv

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES ☐

NO ☒

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES ☐

NO ☒

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES ☐

NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached

YES ☐

NO ☒

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES ☒

NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES ☐

NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES ☐

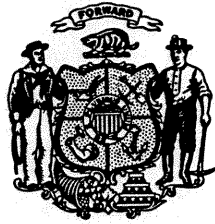
NO ☒

# **WISCONSIN LEGISLATIVE COUNCIL STAFF**

## **RULES CLEARINGHOUSE**

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Director  
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**Richard Sweet**  
Assistant Director  
(608) 266-2982



**David J. Stute, Director**  
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## **CLEARINGHOUSE RULE 99-091**

### **Comments**

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

One of the elements of the definition of "local bridge" in s. Trans 213.02 (6) is that it be "open to the public." Does the department intend that only bridges that have not actually been closed to travel because of structural or other deficiencies are eligible for reconstruction or rehabilitation under ch. Trans 213? Alternatively, does this element of the definition only require that the bridge not be a private bridge? Section Trans 213.02 (6) should be clarified to remove this ambiguity.



**PART 4**  
**CR 99-091**

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**ANALYSIS OF FINAL DRAFT OF TRANS 213**

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(a) **Need for Amended Rule.** This proposed rule making will modify the current Wisconsin requirements for replacement of eligible structures under the Local Bridge Improvement Assistance Program. The sufficiency rating for replacement is raised from less than 40 to the federal standard of less than 50. At the same time, minor changes in this proposed rule will eliminate any discrepancies between federal requirements and the current rule, and update outdated references.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on June 29, 1999. No one appeared or registered at the hearing, therefore, no modifications were made as a result of testimony.

(c) **List of Persons who Appeared or Registered at Public Hearing.** None.

(d) **Response to Legislative Council Recommendations.** The Clearinghouse Report had comments regarding the clarity of s. Trans 213.02(6). The Department has decided to delete the phrase "is open to the public" from the definition. The definition was intended to relate to bridges on public roads only and the Department believes this is clear without the ambiguous phrase.

(e) **Final Regulatory Flexibility Analysis.** This proposed rule will have no adverse impact on small businesses.



## Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

Office of General Counsel  
4802 Sheboygan Ave., Rm. 115B  
P.O. Box 7910  
Madison, WI 53707-7910

Telephone: 608-266-8810  
FAX: 608-267-6734  
E-Mail: ogc.exec@dot.state.wi.us

June 1, 1999

The Honorable Judy Robson  
Senate Chairman  
Joint Committee for Review  
of Administrative Rules  
Room 15 South, State Capitol  
Madison, Wisconsin 53702

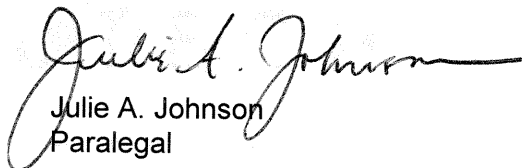
The Honorable Glenn Grothman  
Assembly Chairman  
Joint Committee for Review  
of Administrative Rules  
Room 15 North, State Capitol  
Madison, Wisconsin 53702

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to the **Local Bridge Program**, Trans 213

Dear Senator Robson and Representative Grothman:

Enclosed for your information is a Notice of Public Hearing and Text of Proposed Rulemaking relating to the above-entitled matter. These documents have also been filed with the Revisor of Statutes, the Legislative Council, and the Department of Administration in accordance with the requirements of §§ 227.15 and 227.17, Stats.

Sincerely,

  
Julie A. Johnson  
Paralegal

Enclosure

cc: Sandy Beaupre  
Mike Goetzman  
Jim Van Sistine  
Marsha Traska  
Alex Zanello

---

The Wisconsin Department of Transportation proposes an order to renumber TRANS 213.03(3) to (5); renumber and amend TRANS 213.03(2); amend TRANS 213.02(5), (6), (8) and (9); repeal and recreate TRANS 213.03(1); and create TRANS 213.02(2m), 213.03(2) and (4)(c)(note), relating to the local bridge program.

---

**NOTICE OF HEARING  
AND  
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to ss. 84.18(7) and 85.16(1), Stats., and interpreting s. 84.18, Stats., the Department of Transportation will hold a public hearing in **Room 951** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **29th** day of **June**, 1999, at **1:30 PM**, to consider the amendment of ch. Trans 213, Wisconsin Administrative Code, relating to the local bridge program.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business July 2, 1999, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Alex Zanello, Department of Transportation, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, WI 53707-7913.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

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## Analysis Prepared by the Wisconsin Department of Transportation

**STATUTORY AUTHORITY:** ss. 84.18(7) and 85.16(1), Stats.

**STATUTES INTERPRETED:** s. 84.18, Stats.

**General Summary of Proposed Rule.** This proposed rule making will modify the current Wisconsin requirements for replacement of eligible structures under the Local Bridge Improvement Assistance Program. The sufficiency rating for replacement is raised from less than 40 to the federal standard of less than 50. At the same time, minor changes in this proposed rule will eliminate any discrepancies between federal requirements and the current rule, and update outdated references.

**Fiscal Impact.** The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district or sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

**Initial Regulatory Flexibility Analysis.** This proposed rule will have no adverse impact on small businesses.

**Copies of Proposed Rule.** Copies of the proposed rule may be obtained upon request, without cost, by writing to Alex Zanello, Department of Transportation, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-1535. Alternate formats of the proposed rule will be provided to individuals at their request.

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### TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 84.18(7) and 85.16(1), Stats., the department of transportation hereby proposes to amend a rule interpreting s. 84.18, Stats., relating to the local bridge program.

**SECTION 1.** Trans 213.02(2m) is created to read:

Trans 213.02(2m) "Deficient bridge" is a bridge that is "structurally deficient" or "functionally obsolete" as defined in the federal highway administration's federal-aid policy guide, part NS 23 CFR 650D, par. 9, dated September 30, 1992, attached as appendix 1.

**SECTION 2.** Trans 213.02(5), (6), (8) and (9) are amended to read:

Trans 213.02(5) "Fiscal period" means the period of time for which the program is being planned, normally 2 3 years.

(6) "Local bridge" means a bridge which is not on the state trunk highway system or on marked routes of the state trunk highway system designated as connecting highways, is open to the public, and is under the jurisdiction of and maintained by an eligible applicant.

(8) "Seriously deteriorating local bridge" means a local bridge ~~exhibiting deficiencies that result in a sufficiency rating of less than 40~~ which is a deficient bridge.

(9) "Sufficiency rating" means a relative rating of the condition of a bridge as determined by the department from inventory and inspection data, as defined ~~by the American association of state highway and transportation officials in the Manual for Maintenance Inspection of Bridges 1983, as revised by the Interim Specifications Bridges, 1984-1990, published by the American association of state highway and transportation officials, 444 North Capitol Street, N.W., Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, December 1995, Report No. FHWA-PD-96-001, prepared by the U.S. department of transportation, federal highway administration, office of engineering, bridge division, bridge management branch, Washington, D.C. 20004 20590. This manual is on file at the offices of the division of highways, Wisconsin department of transportation, of the secretary of state and of the revisor of statutes.~~

**NOTE: This manual is on file at the offices of the Division of Transportation Infrastructure Development, Wisconsin Department of Transportation, the Secretary of State, and the Revisor of Statutes.**

**SECTION 3.** Trans 213.03(1) is repealed and recreated to read:

Trans 213.03(1) DETERMINATION OF ELIGIBILITY. A local bridge project is eligible for funds under s. 84.18, Stats., if it meets the following criteria:

- (a) The bridge has been determined by the department to be a deficient bridge.
- (b) The bridge has a sufficiency rating of 80 or less.
- (c) The bridge has not been constructed or reconstructed in the last 10 years regardless of the source of funding for the construction or reconstruction.
- (d) The bridge has not been programmed for construction under an order by the department under s. 84.11(4), Stats.

**SECTION 4.** Trans 213.03(2) is renumbered Trans 213.03(3) and amended to read:

Trans 213.03(3) APPLICATION. Application for replacement or rehabilitation funds may be made by any eligible applicant to the county in which it is located. Each county shall establish priorities for proposed projects in the county. Applications for proposed projects shall be submitted to the department by each county, upon notification by the ~~department's division of highways~~ department.

**SECTION 5.** Trans 213.03(2) is created to read:

Trans 213.03(2) REPLACEMENT AND REHABILITATION. (a) An eligible local bridge project under sub. (1) may be for replacement of the bridge if the bridge has a current sufficiency rating of less than 50.

(b) An eligible local bridge project under sub. (1) may be for rehabilitation of the bridge if the bridge has a sufficiency rating of 80 or less. An engineering study shall be undertaken and funded independently by the eligible applicant that indicates that any rehabilitation would be cost effective, would extend the life of the bridge by at least 10

years, and would correct all deficiencies. If conditions exist that would prevent the completed improvement from correcting all deficiencies, the department may determine if the proposed project is eligible based on safety and the public interest.

**SECTION 6.** Trans 213.03(3) is renumbered Trans 213.03(4) and, as renumbered, Trans 213.03(4)(a) and (b) are amended to read:

Trans 213.03(4)(a) The proportionate share of the funds available to each county shall be the ratio of the estimated cost of replacing those eligible local bridges in the county with sufficiency ratings of less than ~~40~~ 50 to the estimated cost of replacing all eligible local bridges in the state with sufficiency ratings of less than ~~40~~ 50.

(b) Each county's entitlement shall be computed by adding the positive or negative balance of unused funds from previous years to the proportionate share for the fiscal period under consideration.

**SECTION 7.** Trans 213.03(4)(c)(note), as renumbered, is created to read:

**NOTE:** The statewide project ranking and calculation methodology is explained in the Program Management Manual, Chapter 06-02-08, June 10, 1988. Copies of this document may be obtained from the Division of Transportation Investment Management, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-5408.

**SECTION 8.** Trans 213.03(4)(e), as renumbered, is amended to read:

Trans 213.03(4)(e) Funds shall be assigned to projects in order of rank, starting with rank #1 to the limit of available funds in each fiscal period. The department shall notify the counties of the assigned funding to approved projects.

**SECTION 9.** Trans 213.03(4) and (5) are renumbered Trans 213.03(5) and (6).

**(END OF RULE TEXT)**

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**Effective Date.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 27 day of May, 1999.

  
\_\_\_\_\_  
CHARLES H. THOMPSON  
Secretary  
Wisconsin Department of Transportation



## APPENDIX 1

Non-Regulatory Supplement  
Federal-Aid Policy Guide  
September 30, 1992, Transmittal 5

NS 23 CFR 650D

### 9. HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM (23 CFR 650.409)

The National Bridge Inventory will be used for preparing the selection list of bridges both on and off of Federal-aid highways. Highway bridges considered structurally deficient or functionally obsolete and with a sufficiency rating of 80 or less will be used for the selection list. Those bridges appearing on the list with a sufficiency rating of less than 50.0 will be eligible for replacement or rehabilitation while those with a sufficiency rating of 80.0 or less will be eligible for rehabilitation. To be considered for the classification of deficient bridge, a structure must be of bridge length, and had not been constructed or had major reconstruction within the past 10 years.

#### a. General Qualifications:

In order to be considered for either the structurally deficient or functionally obsolete classification a highway bridge must meet the following:

#### Structurally Deficient

1. A condition rating of 4 or less for  
Item 58 - Deck; or  
Item 59 - Superstructures; or  
Item 60 - Substructures; or  
Item 62 - Culvert and Retaining Walls.  
[Item 62 applies only if the last digit of
- or
2. An appraisal rating of 2 or less for  
Item 67 - Structural Condition; or  
Item 71 - Waterway Adequacy.  
[Item 71 applies only if the last digit of Item 42 is coded 0, 5, 6, 7, 8, or 9.]

#### Functionally Obsolete

1. An appraisal rating of 3 or less for  
Item 68 - Deck Geometry; or  
Item 69 - Underclearances;  
[Item 69 applies only if the last digit is coded 0, 1, 2, 4, 6, 7 or 8.]
  - or
  2. An appraisal rating of 3 for  
Item 67 - Structural Condition; or  
Item 71 - Waterway Adequacy. [see above]
- b. Any bridge classified as structurally deficient is excluded from the functionally obsolete category.